IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8046 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NAVAGADH GRAM PANCHAYAT

Versus

JENTILAL AMBAVIDAS

Appearance:

MS SANGEETA PAHWA for MR PM THAKKAR for Petitioner

MR HA RAICHURA for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 09/03/2001

ORAL JUDGEMENT

1. The petitioner - Gram Panchayat has challenged the award made by the Labour Court, Rajkot dated 27/10/1987 in Reference (LCR) No. 180 of 1983, by which the petitioner was ordered to reinstate the respondent

workman to his original post with continuity of service and full back wages.

2. According to the workman he was working as a Watchman with the Panchayat since 12/6/1981 and his services were illegally terminated on 4/9/1982 without payment of any retrenchment compensation.

3. The Labour Court on the basis of the material on record came to a finding that the services of the respondent workman were terminated on 4/9/1982 without payment of any retrenchment compensation or notice pay. It was found that though the workman had given a notice to the Panchayat, which is at exh. 20, the Panchayat did not send any reply. The case of the Panchayat was that the workman was not discharging his duty satisfactorily and was not removing encroachments and, therefore, the services were terminated by resolution passed by the Panchayat. The Labour Court found that the termination was by way of punishment without holding any inquiry and that it violated the provisions of section 25 F of the Industrial Disputes Act. The termination was, therefore, set aside. As there was no satisfactory evidence to show that the workman was gainfully employed and the workman had stated that after his discharge he was not gainfully employed, full back wages were awarded while directing reinstatement.

4. It is evident from the impugned award which has been challenged under Article 227 of the Constitution that the Labour Court has based its findings on the material which was adduced before it and come to a just conclusion warranted by such material. No extraneous material has been taken into account. The impugned award, therefore, cannot be assailed as perverse. The termination of the respondent who was in service since 12/6/1981 after more than a year and 3 months was obviously bad as it contravened the provisions of section 25 F of the Industrial Disputes Act and since the termination was by way of punishment as it transpired during the proceedings, it could not be sustained because the order violated the principles of natural justice. The award of back wages while reinstating the respondent whose services were terminated in gross violation of provisions of law was fully justified in view of the fact that the workman had stated that he was not gainfully employed and further because the witnesses who tried to depose to his earnings admitted that they had no basis for making suggestions about his earnings. The Labour Court has acted in lawful exercise of its jurisdiction warranting no interference by this Court under Article

227 of the Constitution. This petition is, therefore, rejected. Rule is discharged with no order as to costs. Interim relief vacated.

[R.K. ABICHANDANI, J.]

* Pansala.